

## SECOND DIVISION

[ G.R. No. 176070, October 02, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTON MADEO,  
APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Rape is nothing more or less than a conscious process of intimidation by which a man keeps a woman in a state of fear and humiliation. Thus, it is not even impossible for a victim of rape not to make an outcry against an unarmed assailant.<sup>[1]</sup> Physical resistance is immaterial in a rape case when the victim is sufficiently intimidated by her assailant and she submits against her will because of fear for her personal safety.<sup>[2]</sup>

Assailed before us is the 16 October 2006 Decision<sup>[3]</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 01551 which affirmed the Decision<sup>[4]</sup> of the Regional Trial Court of Urdaneta City, Branch 46 in Criminal Case No. U-10600 finding appellant Anton Madeo guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the victim the sum of P50,000.00 as moral damages and P20,000.00 as exemplary damages, with modification that appellant is further ordered to pay the sum of P50,000.00 as civil indemnity.

On 4 April 2000, an Amended Information was filed charging appellant Anton Madeo with the crime of Rape committed as follows:

That on or about December 7, 1999, in the afternoon, at Labit West, Urdaneta City and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well of the mental disability, emotional disorder and/or physical handicap of the offended party, "AAA"<sup>[5]</sup> at the time of the commission of the rape, and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said "AAA," against her will and without her consent, to her damage and prejudice.

Contrary to Art. 266-A, par. 1(a), Revised Penal Code, as amended by Rep. Acts 7659 and 8353.<sup>[6]</sup>

During arraignment, appellant entered a plea of "not guilty."<sup>[7]</sup> Trial on the merits thereafter ensued.

The prosecution presented Dr. Noel U. Obedoza who testified that he examined AAA on 5 January 2000. According to Dr. Obedoza, the victim was conscious and coherent during the interview.<sup>[8]</sup> However, the physical examination results

indicated that she had a ruptured hymen and healed hymenal lacerations<sup>[9]</sup> about three weeks old.<sup>[10]</sup> On the other hand, Dr. Bernadette M. Quitariano testified that she conducted psychological and mental examinations on the person of AAA whom she found to have a mental age of a 5 ½ year old.<sup>[11]</sup>

AAA's mother also testified that on 5 January 2000, she noticed that her daughter was pale and trembling; that when asked if she has any problem, AAA answered "none;"<sup>[12]</sup> that when further asked if somebody touched her private parts, AAA cried and told her that appellant touched her private parts and warned her not to tell anyone or he would kill her family;<sup>[13]</sup> that she and her husband immediately brought AAA to a hospital for examination and to the NBI to report the crime.<sup>[14]</sup>

Complaining witness, AAA, also took the witness stand. She testified that on 7 December 1999 at about 3 o'clock in the afternoon, she was on her way to her grandmother's house when her classmate, Jovelyn Fortuna (Jovelyn), invited her to the house of her uncle, herein appellant Madeo;<sup>[15]</sup> that soon thereafter Jovelyn left AAA alone with appellant<sup>[16]</sup> who summoned AAA to his room; that when she did not comply, appellant forcibly pulled her inside the room,<sup>[17]</sup> undressed her and thereafter touched her private parts;<sup>[18]</sup> that appellant likewise undressed, ordered AAA to lie down, went on top of her and proceeded to have carnal knowledge of her;<sup>[19]</sup> that she felt pain in her private parts;<sup>[20]</sup> that thereafter, appellant warned AAA not to reveal to anyone what happened or he would kill her and her family; that after the sexual assault, appellant put on his pants; that AAA also put on her shorts and was told to go home;<sup>[21]</sup> that after some time she narrated the incident to her mother who brought her to the hospital for medical examination and to the NBI to report the incident.<sup>[22]</sup>

The defense presented Jovelyn as its first witness. She testified that she was staying at her grandmother's house at Labit West, Urdaneta City, Pangasinan;<sup>[23]</sup> that her uncle, appellant herein, also stays in the said house;<sup>[24]</sup> that on 7 December 1999 she was sick<sup>[25]</sup> and did not see her uncle or AAA.<sup>[26]</sup>

Melanie Andrada also testified for the defense. She claimed that Jovelyn is her niece while appellant is her cousin;<sup>[27]</sup> that on 7 December 1999, she visited Jovelyn who was sick,<sup>[28]</sup> and that during her visit, she did not see AAA or appellant.<sup>[29]</sup>

The defense also presented Olimpia Yesa who testified that on 7 December 1999, from 3 to 7 p.m., she was at the house of Epifania Madeo, appellant's mother, as she was treating Jovelyn who was sick.<sup>[30]</sup>

To establish the whereabouts of appellant, the defense presented Virgilio Jacob who testified that on 7 December 1999, he and appellant were working in a mobile rice mill owned by Roger Madolid at Labit West, Urdaneta City.<sup>[31]</sup>

Finally, the defense presented appellant who denied the charges against him. He claimed that on 7 December 1999, he was working at the rolling rice mill together with Berting Jacob, Etong, Rommel, Roger Madolid who owned the rice mill and another person whose name he forgot,<sup>[32]</sup> that from 6 o'clock in the morning up to

6 o'clock in the afternoon, they traveled to several *barangays* in Urdaneta City to mill rice; and that he did not see the victim on said date.<sup>[33]</sup> On cross-examination, appellant averred that he did not have any quarrel with the victim and that he could not understand why the latter would file the charges against him.<sup>[34]</sup>

On rebuttal, the prosecution presented Roger Madolid who denied hiring Virgilio Jacob and appellant as workers in his rolling rice mill. He testified that on 7 December 1999, his rolling rice mill was under repair at the Andrada Repair Shop in Nancamaliran, Urdaneta City.<sup>[35]</sup>

On 24 August 2000, the Regional Trial Court of Urdaneta City, Branch 46, rendered its Decision, the dispositive portion of which reads:

WHEREFORE, JUDGMENT is hereby rendered, CONVICTING ANTON MADEO beyond reasonable doubt of the crime of SIMPLE RAPE and the Court sentences him to suffer the penalty of Reclusion Perpetua; Anton Madeo is hereby ordered to indemnify "AAA" the sum of P50,000.00 as moral damages and P20,000.00 as exemplary damages.

The Branch Clerk of Court of this Court is hereby ordered to prepare the mitimus immediately.

The Jail Warden, Bureau of Jail Management and Penology (BJMP) Urdaneta District Jail, Urdaneta City, is hereby ordered to deliver the living person of Anton Madeo to the National Bilibid Prisons, Muntinlupa City, immediately upon receipt of this Decision.

SO ORDERED.<sup>[36]</sup>

The trial court held that although Dr. Quitoriano testified that AAA has a mental age of 5 ½ years old, the latter is only simple-minded as she was able to finish grade school and has a mental age of more than seven years old. The court below found the testimony of the victim credible and straightforward and corroborated by the medical findings. Likewise, the age of the healed hymenal lacerations coincided with the date of the commission of the crime. On the other hand, the court below disregarded appellant's alibi for being self-serving.

Appellant filed an appeal before the Court of Appeals. In his Brief,<sup>[37]</sup> he alleged that the trial court erred in finding that he employed force and intimidation in consummating the rape.<sup>[38]</sup> He also argued that the victim's actuations did not show the kind of resistance expected of a woman defending her virtue. In particular, appellant asserted that AAA voluntarily accepted the invitation to enter appellant's room; that she did not make any outcry or sought the help of the neighbors despite the lack of danger to her life; that she was not rendered unconscious during the intercourse; that she only used her hands but not her feet in warding off appellant's advances; and that the medical report did not indicate that AAA suffered any physical injury.<sup>[39]</sup>

Appellant likewise argued that the trial court erred in finding that the victim was mentally deficient.<sup>[40]</sup> He alleged that when AAA was presented on the witness stand, she was 22 years old and was in 2<sup>nd</sup> year high school.<sup>[41]</sup> Finally, appellant

alleged that the victim may have been coerced by her mother to testify falsely against him in order to have the sole management of the land which she jointly tills with the appellant.<sup>[42]</sup>

In the Appellee's Brief,<sup>[43]</sup> the Office of the Solicitor General countered that appellant's argument of consensual congress should be dismissed because it was clearly established that appellant employed force, threats and intimidation. It was also shown that AAA was deceived to join Jovelyn inside the house of appellant; that the victim's failure to shout could not yield the inference that no rape was committed; and that the mental retardation of AAA was proven beyond reasonable doubt.

On 16 October 2006, the Court of Appeals rendered its Decision affirming with modification the Decision of the Regional Trial Court, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the instant appeal is hereby **DISMISSED**, and the Decision appealed from rendered by the Regional Trial Court of Urdaneta City, Branch 46, dated August 24, 2000, in Criminal Case No. U-10600 is hereby **AFFIRMED with the MODIFICATION** that accused-appellant is hereby **ORDERED** to pay private complainant an additional Fifty Thousand Pesos (P50,000.00) as and by way of civil indemnity.

**SO ORDERED.**<sup>[44]</sup>

The appellate court noted that the issues raised by appellant deal with the victim's credibility and appreciation of facts, both of which lie in the province of the trial court. At any rate, the Court of Appeals found that the trial court did not overlook or mis-appreciate any material fact that warrants a reversal of its findings.<sup>[45]</sup>

The appellate court likewise found that the victim testified in a spontaneous and straightforward manner; that there was nothing in her testimony that detracts from her claim that she was indeed raped; that her failure to make an outcry did not mean that she was not raped; that the fact that she did not shout could be attributed to the warning she received from the appellant; that it is not true that the victim did not resist the advances of the appellant; and that AAA's failure to offer tenacious resistance does not make her submission to the criminal acts of the appellant voluntary.<sup>[46]</sup>

Anent the award of damages, the Court of Appeals held that AAA is entitled to an additional amount of P50,000.00 by way of indemnity *ex delicto*.<sup>[47]</sup>

On 7 March 2007, the Court resolved to notify the parties to file, if they so desire, their respective supplemental briefs.<sup>[48]</sup> Both parties manifested that they were no longer submitting their supplemental briefs since they have already extensively discussed their arguments in their respective briefs.<sup>[49]</sup>

Article 266-A of the Revised Penal Code provides:

ART. 266-A. *Rape, When and How Committed.* - Rape is committed -

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:
  - a. Through force, threat or intimidation;
  - b. When the offended party is deprived of reason or is otherwise unconscious;
  - c. By means of fraudulent machination or grave abuse of authority;
  - d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above is present;

x x x x.

Thus, in the instant case, the prosecution must prove beyond reasonable doubt that appellant had carnal knowledge of AAA through the use of force, threats or intimidation.

We have carefully examined the records of the case and we find that both the trial court and the Court of Appeals correctly held that appellant is guilty of the crime of simple rape. The testimony of the victim clearly established that appellant had sexual intercourse with her without her consent and against her will by employing force, threats and intimidation. Her narration of her harrowing experience is enlightening, thus:

Q On December 7, 1999 at 3:00 O'clock in the afternoon, do you remember where you were?

A Yes, sir.

Q Where were you?

A I was walking going to the house of my grandmother, sir.

Q Were you able to reach the house of your grandmother on that date and time?

A No, sir.

Q Why were you not able to reach the house of your grandmother?

A That was the time when Anton Madeo raped me, sir.

Q Will you kindly tell this Honorable Court how this incident happened and started?

A I was walking going to the house of my grandmother, Jovelyn called me, sir.

Q What is the family name of this Jovelyn?